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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91204791
Party	Defendant KEYSTONE WOUNDED WARRIORS
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Submission	Answer
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Date	05/25/2012
Attachments	WW Notice of Opposition.pdf (7 pages)(267429 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re: Application Serial No. 85/363,633
For: KEYSTONE WOUNDED WARRIORS
Filed: July 11, 2011
Published: December 20, 2011

WOUNDED WARRIOR PROJECT, INC.,)	Opposition No. 91204791
)	
Opposer,)
)	
v.)
)	ANSWER TO NOTICE OF
KEYSTONE WOUNDED WARRIORS,	OPPOSITION
)	
)	
Applicant.)
)	
_____)	

United States Patent and Trademark Office
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Dear Sir:

Pursuant to 37 C.F.R. §§ 2.114 and 2.116(a), and Fed. R. Civ. P. 8, for its Answer to the Notice of Opposition filed April 18, 2012 (the "Opposition"), Applicant KEYSTONE WOUNDED WARRIORS (hereinafter "Applicant") submits the following:

1. Applicant admits that U.S. Patent and Trademark Office online records show Opposer is owner of Registration No. 3,001,447 issued on September 25, 2005 for the stated use. Except as expressly admitted, Applicant lacks sufficient knowledge or information to form a belief as to the truth of the averments of paragraph 1 of the Opposition, and on that basis denies same.rsf

2. Applicant admits that U.S. Patent and Trademark Office online records show Opposer is owner of Registration No. 3,841,207, issued on August 31, 2010 for the stated use. Except as expressly admitted, Applicant lacks sufficient knowledge or information to form a belief as to the truth of the averments of paragraph 2 of the Opposition, and on that basis denies same.

3. Applicant admits that U.S. Patent and Trademark Office online records show Opposer is owner of Registration No. 3,878,955, issued on November 23, 2010 for the stated use. Except as expressly admitted, Applicant lacks sufficient knowledge or information to form a belief as to the truth of the averments of paragraph 3 of the Opposition, and on that basis denies same.

4. Applicant admits that U.S. Patent and Trademark Office online records show Opposer is owner of pending Application Serial No. 85/356,470, filed on June 26, 2011 for the stated goods. Except as expressly admitted, Applicant lacks sufficient knowledge or information to form a belief as to the truth of the averments of paragraph 4 of the Opposition, and on that basis denies same.

5. Applicant admits that U.S. Patent and Trademark Office online records show Opposer is owner of pending Application Serial No. 85/293,638, filed on April 13, 2011 for the stated goods. Except as expressly admitted, Applicant lacks sufficient knowledge or information to form a belief as to the truth of the averments of paragraph 5 of the Opposition, and on that basis denies same.

6. Applicant lacks sufficient knowledge or information to form a belief as to the truth of the averments of paragraph 6 of the Opposition, and on that basis denies same.

7. Applicant lacks sufficient knowledge or information to form a belief as to the truth of the averments of paragraph 7 of the Opposition, and on that basis denies same. Furthermore, Applicant demands specific proof of the averments made therein.

8. Applicant lacks sufficient knowledge or information to form a belief as to the truth of the averments of paragraph 8 of the Opposition, and on that basis denies same. Furthermore, Applicant demands specific proof of the averments made therein.

9. Applicant lacks sufficient knowledge or information to form a belief as to the truth of the averments of paragraph 9 of the Opposition, and on that basis denies same. Furthermore, Applicant demands specific proof of the averments made therein.

10. Applicant lacks sufficient knowledge or information to form a belief as to the truth of the averments of paragraph 10 of the Opposition, and on that basis denies same. Furthermore, Applicant demands specific proof of the averments made therein.

11. Applicant admits that it is the listed owner of Application Serial No. 85/363,633 for the mark KEYSTONE WOUNDED WARRIORS used in connection with (as amended) "Charitable fundraising to support the needs of severely injured U.S. military personnel" in International Class 36, filed July 11, 2011 under Section 1(a). Applicant notes that the Examining Attorney searched the U.S. Trademark Office database of registered and pending marks and found no conflicting marks that would bar registration of Applicant's KEYSTONE WOUNDED WARRIORS mark under Trademark Act § 2(d), including Opposer's Marks, as defined in the Opposition.

Applicant's KEYSTONE WOUNDED WARRIORS mark was published in the Official Gazette on December 20, 2011.

12. As to the first use, distinctiveness and fame of Opposer's WOUNDED WARRIOR PROJECT mark, Applicant lacks sufficient knowledge or information to form a belief as to the truth of the averments of paragraph 12 of the Opposition, and on that basis denies same. Furthermore, Applicant demands specific proof of the averments made therein. Applicant admits that the date of first use alleged in its pending Application Serial No.85/363,633 is November 25, 2010. Applicant denies the remaining averments of paragraph 12 of the Opposition.

13. Denied. Furthermore, Applicant demands specific proof of the averments made therein.

14. Denied. Furthermore, Applicant demands specific proof of the averments made therein.

15. Denied. Furthermore, Applicant demands specific proof of the averments made therein.

FIRST AFFIRMATIVE DEFENSE

The Notice of Opposition fails to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

Applicant alleges that due to the differences between Applicant's mark and Opposer's Marks, and the differences between the goods and/or services used on

and/or in connection with the respective marks, there is no likelihood of confusion, mistake, or deception between Applicant's Mark and Opposer's Marks.

THIRD AFFIRMATIVE DEFENSE

The terms "WOUNDED WARRIOR," "PROJECT" and "WOUNDED WARRIOR PROJECT" are descriptive, and therefore, presumptively weak. As a result, Opposer's purported rights extend no further than the specific marks to which Opposer claims ownership.

FOURTH AFFIRMATIVE DEFENSE

The terms "WOUNDED WARRIOR," "PROJECT" and "WOUNDED WARRIOR PROJECT" are highly diluted, and therefore, presumptively weak. As a result, Opposer's purported rights extend no further than the specific marks to which Opposer claims ownership.

FIFTH AFFIRMATIVE DEFENSE

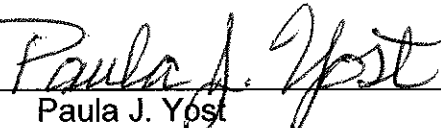
Any attempt to extend trademark rights to a portion of a trademark is an impermissible attempt to obtain phantom rights and violates the one-mark-per-application requirement of the Lanham Act.

SIXTH AFFIRMATIVE DEFENSE

Opposer's Request for Relief is barred by one or more of the equitable doctrines of waiver, estoppel and laches, as applicable.

WHEREFORE, Applicant respectfully submits that the Opposition be dismissed, with prejudice to the Opposer, and that Application Serial No. 85/363,633 for the mark KEYSTONE WOUNDED WARRIORS be approved for registration.

Respectfully submitted,

By: 
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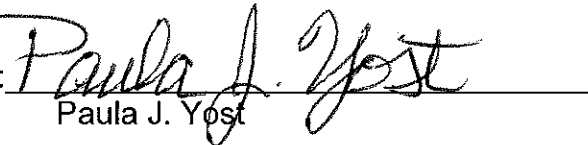
Dated: May 25, 2012

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Answer to Notice of Opposition filed in Opposition No. 91204791 regarding Application Serial No. 85/363,633, has been served on Patrick C. Stephenson, Esq., John P. Passarelli, Esq., and Nicholas N. Clatterbuck, Esq. by mailing said copy on May 25, 2012, via First Class Mail, postage prepaid to:

Patrick C. Stephenson
John P. Passarelli
Nicholas N. Clatterbuck
Kutak Rock LLP
1650 Farnam Street
Omaha, NE 68102

Dated: May 25, 2012

By: 
Paula J. Yost